

MICHAEL C. KANE, ESQ.
Nevada Bar No. 10096
BRADLEY J. MYERS, ESQ.
Nevada Bar No. 8857
THE702FIRM
400 S. 7th Street, Suite 400
Las Vegas, Nevada 89101
Telephone: (702) 776-3333
Facsimile: (702) 505-9787
E-Mail: mike@the702firm.com
brad@the702firm.com

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CHERYL LEHMAN, individually; STEVE
LEHMAN, individually,

Plaintiffs,

vs.

WAL-MART STORES, INC., a Delaware
corporation d/b/a WALMART; DOES I
through X, inclusive and ROE
CORPORATIONS I through X, inclusive.

Defendants.

Case No. : 2:15-cv-00098

**DISCOVERY PLAN AND
SCHEDULING ORDER SUBMITTED
IN COMPLIANCE WITH LR26-1(e)**

1. MEETING

Pursuant to FRCP 26(f) and LR 26-1(a), a meeting of counsel was held on February 11, 2015 and attended by:

Marissa R. Temple, Esq., of the firm of THE702FIRM for Plaintiffs CHERYL LEHMAN and STEVE LEHMAN; and

Breane Stryker, Esq., of the firm PHILLIPS, SPALLAS & ANGSTADT, LLC for Defendant WAL-MART STORES, INC..

The parties will exchange the initial disclosures within 14 days of the Rule 26-1

1 Conference in accordance with Rule 26(a)(C). It is agreed that Plaintiff CHERYL LEHMAN will
 2 complete, sign and serve the following forms provided to Plaintiff's counsel by Defense counsel on
 3 Defendant within fourteen (14) days of receipt thereof: (1) provider specific HIPAA-Compliant
 4 Authorizations for the Release of Patient Information Pursuant to 45 CFR 164; (2) Social Security
 5 Administration Consent for Release of Information; (3) Consent for Release of Employment
 6 Information (employer specific); and (4) IRS Release.

8 Plaintiff CHERYL LEHMAN agrees to execute HIPAA-Compliant Authorization for the
 9 Release of Patient Information Pursuant to 45 CFR 164.508 for all providers identified in her Rule
 10 26(a) Disclosures and supplements thereto.

11 1. Plaintiff CHERYL LEHMAN agrees that within seven (7) days of receipt of
 12 Defendant's request for Plaintiff's execution of a provider-specific authorization, apart from those
 13 encompassed by paragraph (i) above, her counsel will advise whether or not Plaintiff objects to the
 14 discoverability of the requested records.

16 2. If an objection is raised, the parties agree to meet and confer on said issue. If parties
 17 are unable to resolve said dispute, parties agree to bring the dispute to the Court for resolution.

18 3. If, however, no objection is raised within 7 days of said request, Plaintiff agrees to
 19 execute the requested authorization with 14 days of the request.

21 **2. DISCOVERY PLAN**

22 The parties jointly propose the following discovery plan:

23 **(a) Subject of Discovery:**

24 Discovery will be needed on the following subjects – all claims set forth in the
 25 original Complaint, as well as the defenses relevant to the action. The parties agree
 26 that Plaintiff CHERYL LEHMAN will undergo an independent medical
 27 examination performed by Defendant's doctor, to be determined. The parties agree
 28

that Plaintiff CHERYL LEHMAN will undergo an independent medical examination performed by Defendant's doctor, to be determined.

(b) Discovery Cut Off Date(s):

The parties anticipate that discovery will take 180 days, measured from **January 16, 2015**, which is the date removal occurred and the case was assigned to Judge Jennifer Dorsey and Magistrate Judge George Foley, Jr. This means all discovery must be completed by **July 15, 2015** (Wednesday).

(c) FRCP 26(a)(2) Disclosures (Experts):

Disclosure of experts shall proceed according to FRCP 26(a)(2), except that:

- (1) The disclosure of experts and expert reports shall occur on **May 18, 2015** (Monday), which is 60 days before the discovery cut-off date; and
- (2) The disclosure of rebuttal experts and their reports shall occur on **June 15, 2015** (Monday), which is 30 days before the discovery cut-off date.

3. OTHER ITEMS

(a) Amending the Pleadings and Adding Parties:

The parties have until **April 16, 2015** (Thursday) to file any motion to amend the pleadings or add parties. This is 90 days before the discovery cut-off and does not exceed the outside limit LR 26-1(e)(2) presumptively sets for ninety (90) days before the discovery cut-off date of filing such motions.

(b) Interim Status Report:

The parties shall file the interim status report required by LR 26-3 by **May 18, 2015** (Monday). The undersigned counsel certify that they have read LR 26-3 and that this date is not later than sixty (60) days before the discovery cut-off date.

(c) Dispositive Motions:

The parties shall have until **August 14, 2015** (Friday) to file dispositive motions. This is thirty (30) days after the discovery cut-off date and does not exceed the outside limit of thirty (30) days following the discovery cut-off date that LR 26-1(d)(4) presumptively sets for filing dispositive motions.

(d) Settlement:

There has not been any settlement discussions to date.

(e) Pretrial Order:

The pretrial order shall be filed by **September 14, 2015** (Monday), which is not more than 30 days after the date set for filing dispositive motions in this case. This date is suspended if the dispositive motions are timely filed. The disclosures required by FRCP 26(a)(3) shall be made in the joint pretrial order.

(f) Court Conference:

The parties do not request a conference with the Court before entry of the scheduling order.

(g) Later Appearing Parties:

A copy of this discovery plan and scheduling order shall be served on any person served after it is entered, or, if additional defendants should appear, within five (5) days of their first appearance. This discovery plan and scheduling order shall apply to such later-appearing parties, unless the Court, on motion and for good cause shown, orders otherwise.

(h) Extension or Modification of the Discovery Plan and Scheduling Order:

LR 26-4 governs modifications or extensions of this discovery plan and scheduling order. Any stipulation or motion must be made not later than twenty-one (21) days before the expiration of the subject deadline to be extended. Any request made after

the expiration of the subject deadline shall not be granted unless the movant demonstrates that the failure to act was the result of excusable neglect.

DATED this 17th day of February, 2015.

DATED this 17th day of February, 2015.

THE702FIRM

**PHILLIPS, SPALLAS &
ANGSTADT, LLC**

/s/ Marissa R. Temple, Esq. _____
BRADLEY J. MYERS, ESQ.
Nevada Bar No. 8857
MARISSA R. TEMPLE, ESQ.
Nevada Bar No. 9028
400 S. 7th Street, Suite 400
Las Vegas, Nevada 89101
Attorneys for Plaintiff

/s/ Breane P. Stryker, Esq. _____
Brenda H. Entzminger, Esq.
Nevada Bar No. 9800
Breane P. Stryker, Esq.
Nevada Bar No. 13594
504 S. 9th Street
Las Vegas, Nevada 89101
Attorney for Defendant

ORDER

IT IS SO ORDERED:

1. Discovery will take 180 days, measured from **January 16, 2015**, which is the date removal occurred and the case was assigned to Judge Jennifer Dorsey and Magistrate Judge George Foley, Jr. Discovery must be completed by **July 15, 2015** (Wednesday).

2. The disclosure of experts and expert reports shall occur on **May 18, 2015** (Monday), which is 60 days before the discovery cut-off date.

3. The disclosure of rebuttal experts and their reports shall occur on **June 15, 2015** (Monday), which is 30 days before the discovery cut-off date.

4. Amending the Pleadings and Adding Parties. The parties have until **March 6, 2015** (Monday), to file any motion to amend the pleadings or add parties. This is 90 days before the discovery cut-off date for filing such motions.

5. Interim Status Report. The parties shall file the interim status report required by LR 26-3 by **May 18, 2015** (Monday). The undersigned parties certify that they have read LR 26-3 and that this date is not later than sixty (60) days before the discovery cut-off date.

6. Dispositive Motions. The parties shall have until **August 14, 2015** (Friday) to file dispositive motions. This is thirty (30) days after the discovery cut-off date and does not exceed

1 the outside limit of thirty (30) days following the discovery cut-off date that LR 26-1(d)(4)
2 presumptively sets for filing dispositive motions.

3 7. Pretrial Order. The pretrial order shall be filed by **September 14, 2015** (Monday),
4 which is not more than 30 days after the date set for filing dispositive motions in this case. This
5 deadline is suspended if a dispositive motion is timely filed. The disclosures required by FRCP
6 26(a)(3) shall be made in the joint pretrial order.

7 DATED this ____ day of _____, 2015.

8
9 _____
10 UNITED STATES MAGISTRATE JUDGE
11 GEORGE FOLEY, JR.
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28